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8674**REMARKS**

Claims 1-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bentley in view of Audett or Prejean. The Examiner argues that Bentley discloses a heat exchanger 20 having a layer of polypropylene 92 adhesively bonded to a metal sheet blank 72. The Examiner admits on page 2 of the Office Action that Bentley does not teach the use of an ethylene terpolymer with an organosilicone functional group that adheres the polymer laminated sheet stock 92 to the metal sheet blank 72. The Examiner asserts that Audett suggests a water-curable adhesive including a copolymer of ethylene and hydro-carbyl esters of  $\alpha$ ,  $\beta$ -ethylenically unsaturated carboxylic acid grafted with a silane monomer. That Examiner also asserts that Prejean suggests an ethylene terpolymer hot melt adhesive. The Examiner contends it would be obvious to employ an ethylene terpolymer to adhere the film to the heat exchanger of Bentley because of either Audett or Prejean, and therefore claims 1-14 are obvious.

The Examiner argues it would have been obvious to one having ordinary skill in the art to provide the heat exchanger of Bentley "with a water-curable ethylene terpolymer hot melt adhesive" because of Audett or Prejean. This is clearly a use of hindsight reconstruction. It is impermissible to engage in hindsight reconstruction of the claimed invention, using Applicant's structure as a template and selecting elements from the references to fill the gaps. The references themselves must provide some teaching whereby the Applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991).

Additionally, the mere fact that Bentley could be modified does not make such a modification obvious unless the prior art suggests the desirability of doing so. There simply is no teaching, suggestion, or incentive in any of the references that would have led one of ordinary skill in the art to modify the Bentley heat exchanger in the manner proposed by the Examiner. Nothing in Bentley would lead one of ordinary skill in the art to believe that the adhesion of the polymer layer of the corrosion heat exchanger of Bentley was in any way deficient for Bentley's purposes or was in need of modification. One of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to combine these references other than through the luxury of hindsight accorded one who first viewed appellant's disclosure. This is not a proper basis for a rejection under 35 U.S.C. 103. There simply is no suggestion in the references, or in the prior art as a whole, that suggests the desirability of making the combination.

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The references do not provide any teaching to combine the references. Bentley only relates to the use of a layer of corrosion resistant polymer on a heat exchanger to prevent corrosion and does not relate to an adhesive used to adhere the corrosion resistant polymer to the heat exchanger. There is no suggestion in Bentley to employ ethylene terpolymer to adhere the polymer layer to the heat exchanger. Audett and Prejean also do not disclose or suggest using ethylene terpolymer to adhere a film to a heat exchanger. Prejean only generally teaches an ethylene terpolymer, its properties, and a method of making. Audett only generally teaches a copolymer of ethylene and hydro-carbonyl esters of  $\alpha$ ,  $\beta$ -ethylenically unsaturated carboxylic acid grafted with a silane monomer. Neither Audett or Prejean disclose, suggest or teach using ethylene terpolymer on a heat exchanger. There is no motivation to combine the references, and claims 1-14 are not obvious.

Thus, claims 1-14 are in condition for allowance. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

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## CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, 703-872-9306 on January 14, 2004.



Karin Butchko

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